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File No.

February 21, 2017

BY ECF

The Honorable Katherine B. Forrest
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

USDC SDNY
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Re: United States v. Darcy Wedd, 15 Cr 616 (KBF)

Your Honor:

I write on behalf of all defense counsel in response to the Court's proposed juror questionnaire¹ (See ECF 226). The Government responded on February 7, 2017 (ECF No. 235) and the Court ordered defendants to submit their response no later than February 21, 2017 (ECF Nos. 227, 239).

The Court's proposed questionnaire includes fifteen questions, the answers to which the parties are to make agreed strikes and non-agreed, requested strikes, and for the Court to make additional, appropriate strikes. In order to provide the parties and the Court with slightly more information on which to make these judgments, and to save the Court and the panel time when voir dire begins on April 3, 2017, the defendants request the following minimal additions and clarifications in **bold** to the proposed questionnaire:

(1) No changes requested to the current language. Defendants, however, respectfully request the Court to add this follow up language to Question 1.

DK
If YES, will you be paid your salary while you serve jury duty?

¹ On June 14, 2016, Maurice Sercarz submitted to the Court a letter on behalf of all defendants attaching a proposed questionnaire for use in jury selection (ECF No. 131). While defendants request that these questions be considered when addressing proposed voir dire, for purposes of the questionnaire, defendants request a narrower inquiry as outlined in this letter.

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(11) No changes requested.

(12) While this case does involve allegations of unauthorized charges on cell phone bills, it is likely that potential jurors who have been victims or have been close to others who have been victims of alleged fraudulent billing – whether or not the allegation specifically involved cell phones – could have similar reactions to serving as a juror in this case. Defendants respectfully request that the Court replace “**a cellphone bill**” with “**any bill**” and add this follow up question:

a. **If YES, is there anything about that experience that would affect your ability to fairly evaluate the evidence where there are allegations of fraudulent billing?**

(13) Like the requested change in question 12, defendants request that question 13 be broadened to any crime involving fraud, deleting the phrase “**text messaging fraud or cellphone billing fraud.**” In this case, for example, the fraudulent billing allegations resulting from deceptive advertising and encompassed in the Government’s 404(b) Notice (ECF No. 241) involve Internet fraud. It would be helpful, moreover, to the Court and to the parties to understand whether these allegations would affect a juror’s ability to serve. Accordingly, defendants request that the Court add this follow up question:

a. **If YES, is there anything about that experience that would affect your ability to fairly evaluate the evidence where there are allegations of fraudulent billing?**

(14) No requested change.

(15) No requested change.

As the Court noted at the April 14, 2016 and January 13, 2017 hearings, it is useful to surface issues that potential jurors may have with sitting in a weeks-long trial before they are standing in the courtroom.

The defendants’ proposed additions will not significantly increase the number of questions to be answered, are primarily aimed at more thoroughly surfacing potential juror issues, and, we submit, could meaningfully shorten the time need for jury selection.

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Very truly yours,

/s/

Marc S Nurik

msn:km

Ordered

Does the Government have a
view on the proposed addition/
modification?

16B.J.
msn:km

2/23/17